

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

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U.S. Department of Justice
P.O. Box 227
Washington, D.C. 20044
202-514-5153 (v)
202-514-6866 (f)
Catriona.M.Coppler@usdoj.gov

Counsel for the United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. 3:20-cv-12343
v.)	
)	
CLAUDIO MARCOS SILVA BICALHO,)	
297 Hillside Avenue)	
Long Branch, New Jersey 07740)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff, the United States of America, at the request and with the authorization of a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States, brings this civil action to collect the penalties assessed against Claudio Marcos Silva Bicalho under 31 U.S.C. § 5321(a)(5) for his non-willful failure to report his interest in foreign bank accounts for the 2012 through 2015 calendar years. In support of this action, the United States alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1335.

2. Venue properly lies in this district under 28 U.S.C. § 1391 because Defendant Claudio Marcos Silva Bicalho resides in Long Branch, New Jersey, which is within this district.

PARTIES

3. The plaintiff is the United States of America.

4. Defendant Claudio Marcos Silva Bicalho is, upon information and belief, a resident of Monmouth County, which is within the jurisdiction of this Court.

LEGAL BACKGROUND

5. All citizens and residents of the United States who have a financial interest in, or signatory or other authority over, a foreign financial account or accounts exceeding \$10,000 at any time during a calendar year are required to file an annual report disclosing the existence of each account. 31 U.S.C. § 5314; 31 C.F.R. § 1010.350.

6. For the years at issue in this case, the annual report for a calendar year, known as the Report of Foreign Bank and Financial Accounts (“FBAR”), was due no later than June 30 of the year following the calendar year. 31 C.F.R. § 1010.306(c).

7. For calendar years 2012 and prior, a person met this reporting requirement by filing a Form TD-F 90-22.1, Report of Foreign Bank and Financial Accounts. Beginning for calendar year 2013, a person met this reporting requirement by filing the Financial Crimes Enforcement Network (“FinCEN”) Form 114.

8. Additionally, all persons who are required to file a Schedule B to their federal income tax returns (“Form 1040”) are required to disclose whether, at any time during that tax

year, they had a financial interest in or signatory authority over a financial account located in a foreign country.

9. The failure to properly report an account through the filing of an FBAR in any calendar year when it is required is subject to a penalty not to exceed \$10,000 for each non-willful violation of the FBAR filing requirements. 31 U.S.C. § 5321(a)(5)(B)(i).

**BICALHO FAILED TO TIMELY REPORT HIS INTEREST
IN FOREIGN FINANCIAL ACCOUNTS**

10. Bicalho was born in Brazil in 1976.

11. While he resided in Brazil, Bicalho opened a financial account in Brazil with Itau Unibanco (“Unibanco”).

12. Bicalho immigrated to the United States in 2004, and has resided full-time in the United States since then.

13. From 2012 through 2015, Bicalho maintained his financial account with Unibanco. The account consisted of one main account and several subaccounts (collectively the “Unibanco Accounts”).

14. From 2012 through 2015, the subaccounts consisted of a savings account and an investment account in bonds.

15. In 2014 and 2015, Bicalho added an additional subaccount that invested in insurance policies.

16. From 2012 through 2015, the aggregate amount in the Unibanco Accounts exceeded \$10,000.

**COUNT I: COLLECT CIVIL PENALTIES ASSESSED
PURSUANT TO 31 U.S.C. § 5321(a)(5)**

17. The United States incorporates by reference the allegations in paragraphs 1 through 16 above.

18. From 2012 through 2015, Bicalho was a resident of the United States, and was subject to the reporting requirements contained in 31 U.S.C. § 5314 and its implementing regulations.

19. From 2012 through 2015, Bicalho had a financial interest in, signatory authority over, or other authority of the Unibanco Accounts as more fully described in paragraphs 13 through 16 above.

20. The Unibanco Accounts are considered financial accounts in a foreign country for the purposes of 31 U.S.C. §§ 5314 and 5321(a)(5).

21. The Unibanco Accounts had an aggregate balance that exceeded \$10,000 from 2012 through 2015.

22. Bicalho failed to timely file FBARs for calendar years 2012 through 2015, despite his obligation to do so.

23. On September 11, 2018, a delegate of the Secretary of the Treasury assessed civil penalties against Bicalho under 31 U.S.C. § 5321(a)(5), as set forth below:

Year	Assessment Type	Assessment Amount
2012	Non-Willful FBAR Penalty	\$10,000
2013	Non-Willful FBAR Penalty	\$10,000
2014	Non-Willful FBAR Penalty	\$10,000
2015	Non-Willful FBAR Penalty	\$10,000

24. A delegate of the Secretary of the Treasury sent notice of the assessments described in paragraph 23 above and demanded payment.

25. Despite notice and demand for payment, Bicalho has failed to pay the FBAR penalties assessed against him.

26. Interest and penalties have accrued and will continue to accrue on the penalty assessments described above pursuant to 31 U.S.C. § 3717.

27. As of September 20, 2019, Bicalho is indebted to the United States in the amount of \$42,784.66 plus statutory additions that will continue to accrue thereafter as provided by law.

WHEREFORE, the United States of America respectfully requests that the Court:

A. Enter judgment in favor of the United States and against Bicalho in the amount of \$42,784.66 as of September 20, 2019, for the amounts assessed against Bicalho under 31 U.S.C. § 5321(a)(5), plus further interest, penalties, and statutory additions to those amounts accruing after that date until paid in full;

B. Award to the United States its costs of prosecuting this action; and

C. Grant such other and further relief as the Court deems just and proper.

Date: September 4, 2020

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

s/ Catriona M. Coppler
CATRIONA M. COPPLER
Trial Attorney, Tax Division
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DESIGNATION OF AGENT FOR SERVICE UNDER LOCAL CIVIL RULE 101.1(f)

In accordance with Local Civil Rule 101.1(f), the undersigned hereby designates the United States Attorney for the District of New Jersey to receive service of all notices or papers in this action at the following address:

Chief, Civil Division
United States Attorney's Office
District of New Jersey
402 East State Street, Room 430
Trenton, New Jersey 08608

Date: September 4, 2020

s/ Catriona M. Coppler
CATRIONA M. COPPLER
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U.S. Department of Justice
P.O. Box 227
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Catriona Coppler, U.S. Department of Justice, Tax Division, P.O. Box
227, Ben Franklin Station, Washington, D.C. 20044, 202-514-5153

DEFENDANTS

Claudio Marcos Silva Bicalho

County of Residence of First Listed Defendant Monmouth County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

31 U.S.C. § 5321

Brief description of cause:

Suit to reduce to judgment penalties imposed for failure to file Reports of Foreign Bank and Financial Acct. (FBAR)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
42,784.66

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

09/04/2020

SIGNATURE OF ATTORNEY OF RECORD

s/ Catriona M. Coppler

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of New Jersey

United States of America

Plaintiff

v.

Claudio Marcos Silva Bicalho

Defendant

)
)
)
)
)
)
)

Civil Action No. 3:20-cv-12343

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

CLAUDIO MARCOS SILVA BICALHO
297 Hillside Avenue
Long Branch, New Jersey 07740

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

CATRIONA M. COPPLER
U.S. Department of Justice, Tax Division
P.O. Box 227
Washington, D.C. 20044

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 3:20-cv-12343

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* Claudio Marcos Silva Bicalho
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____ , a person of suitable age and discretion who resides there,
 on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: